

# **EXHIBIT 42**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

NIKE, INC.;

Plaintiff,

vs.

STOCKX, LLC;

Defendant.

Case No.

1:22-cv-00983-VEC

VIDEOTAPED DEPOSITION OF ROY IKHYUN KIM

San Diego, California

Wednesday, February 8, 2023

Reported by:

Lynda L. Fenn, CSR, RPR

CSR No. 12566

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VIDEOTAPED DEPOSITION of ROY IKHYUN KIM,  
taken on behalf of Plaintiff, San Diego,  
California, at 9:56 a.m. and ending at 1:40  
p.m., Wednesday, February 8, 2023, reported by  
Lynda L. Fenn, CSR No. 12566, Certified  
Shorthand Reporter within and for the State of  
California, pursuant to notice.

1           A     Since 2018 is when I would probably say I  
2     started reselling sneakers.

3           Q     Where do you purchase your sneakers?

4           A     I purchase them from retail stores. From  
5     StockX. From Instagram sellers as well.

6                 I purchase some from GOAT and eBay as well.

7           Q     Do you ever purchase directly from  
8     retailers?

9           A     I do.

10          Q     Okay.

11                 Can you give me some examples?

12          A     I've bought directly from Nike. I've  
13     brought directly from Adidas. New Balance.

14                 I also by from resellers like Foot Locker,  
15     Champs, DTLR.

16                 I mean any retailer that sells shoes, I've  
17     probably brought from them in the past two years.

18          Q     And now you mentioned again StockX and  
19     GOAT.

20          A     Uh-huh.

21          Q     Is there a resell platform that you used  
22     most frequently before July 2022?

23          A     Yes, StockX is the main resell platform I  
24     use.

25          Q     Okay.

1 And why did you use this platform the most?

2 A StockX offered the best prices. As also a  
3 power buyer, I've had discounts on shipping so it  
4 made no sense economically to purchase through their  
5 platform.

6 Q Now, how much have you spent purchasing on  
7 StockX platform?

8 A Over a million dollars.

9 Q And if you can recall, do you know when you  
10 made your first purchase from StockX?

11 A Probably 2017, 2018. But I have to look  
12 that up to be specific.

13 Q And how many purchases would you estimate  
14 you've made from StockX to date?

15 A Maybe around 5,000 shoes or so.

16 Q And are you familiar with the StockX term  
17 "power buyer"?

18 A That was a phrase that I use. They might  
19 use it, but I'm not sure if they use it.

20 Q And what does "power buyer" mean?

21 A It's just somebody who -- if they spend a  
22 certain amount within a quarter, they get discounted  
23 shipping rates.

24 Q And what amount is that, if you know?

25 A I don't recall off the top of my head.

1 service you received from StockX after becoming a  
2 power buyer?

3 A Their customer service is generally pretty  
4 good just not in this particular case. Generally,  
5 they are responsive to any issues that I have as a  
6 buyer or a seller within 24 hours.

7 In this case I didn't hear back them from.

8 Q And do you think that StockX made it easier  
9 for you to return products with issues?

10 A I'm sorry, I don't understand your  
11 question.

12 Q Yeah.

13 Did StockX make it easy for you to return  
14 products with issues?

15 A Outside of this particular scenario or  
16 others?

17 Q Well, let's focus on this particular  
18 scenario.

19 A In this scenario, yeah, once they received  
20 the shoes and verified that, you know, they were  
21 fake, it was easy for me to return.

22 They sent me a bunch of shipping label and  
23 I sent the shoes back with them.

24 Q Okay. How about in other situations?

25 Does StockX make it easy for you to return

1 A Yes.

2 Q Okay. Since that time --

3 A Uh-huh.

4 Q -- can you estimate the number of purchases  
5 that you have made through StockX?

6 A Probably around like two thousand, three --  
7 two thousand, three thousand. A couple thousand  
8 pairs, sorry, two or three thousand pairs of shoes.

9 Q Two or three thousand pairs of shoes?

10 A I know it's a million dollars because it  
11 shows up on my StockX profile, but I don't think they  
12 give you the number of items bought.

13 Q Okay.

14 But it certainly -- there's been a million  
15 -- you've made a million dollars in buys since the  
16 year 2017?

17 A Yes.

18 Q Okay.

19 A That's correct.

20 Q How often do you go on the StockX platform?

21 A Daily.

22 Q Okay.

23 You mentioned when you were discussing  
24 StockX, I believe, that one of the services they  
25 provide is to review the product before it is sent to

1 Q Is it that same time period since 2017?

2 A It is, yes.

3 Q Okay.

4 Is there a reason that you use StockX so  
5 much more than these other two platforms?

6 A I prefer the buying experience and it's  
7 actually cheaper to buy on StockX relative to the  
8 other platforms that they have on the market.

9 Q Okay.

10 Are you particular where you buy your  
11 collectable sneakers?

12 MS. REINCKENS: Objection; form.

13 THE WITNESS: Only to the extent that the  
14 price matters to me.

15 MR. POTTER: Okay.

16 BY MR. POTTER:

17 Q So, if the price was appropriate, would you  
18 buy from any source?

19 A If the price was appropriate, I would buy  
20 from any source with an authentication component to  
21 it. But all things considered, if it's the same  
22 price I would prefer to buy on StockX.

23 Q You mentioned that you prefer the buying  
24 experience on StockX?

25 A I do.



1           Q    Can you elaborate on that, please?  What  
2           about the buying experience do you prefer?

3           A    I prefer the app experience.  I prefer the  
4           fact that I can set a bid price, which is the price  
5           I'd want to pay, and then the seller can choose to  
6           match it, which a lot of other platforms do not  
7           allow.

8                   And generally speaking, the customer  
9           experience I've had at StockX when I've had issues  
10          has generally been more responsive than both eBay and  
11          GOAT.

12          Q    So I believe you said that you would only  
13          purchase collectable sneakers through a channel that  
14          would provide some sort of authentication?

15          A    Yeah, for resale.  For -- obviously I don't  
16          prefer retail to begin with, but yes.  When it comes  
17          to resale, yes.

18          Q    Understood.

19          A    Or secondhand, I apologize.

20          Q    Do you believe that's representative of the  
21          buying pattern of sneaker collectors generally?

22          A    I would imagine so, yes.

23          Q    And that's based on your experience dealing  
24          with sneaker collectors --

25          A    Yes.

1       these shoes to be real or are authentic.

2               Q    Did you say that you believe CheckCheck  
3       communicates with replica makers in China?

4               A    That's -- that's my speculation, but I  
5       don't have any information about it.

6                       But they have an understanding of fake  
7       shoes more than the average consumer does.

8               Q    Okay. Has anybody ever told you that --  
9       that they deal directly with replica makers in China?

10              A    No.

11              Q    Okay.

12                       Have you ever had any opportunity to  
13       independently verify the accuracy of CheckCheck's  
14       authentication?

15              A    No, because authenticity is hard to make a  
16       final judgment on. These are all signals -- one of  
17       many signals that we use as sneaker resellers to  
18       understand -- to understand whether these are real  
19       shoes or not.

20              Q    When you say these are one of the signals  
21       we use to understand whether these are real shoes or  
22       not --

23              A    Uh-huh.

24              Q    -- what do you mean by that?

25              A    So, as a sneaker reseller, we can never be

1 a hundred percent sure of the authenticity of the  
2 shoe.

3 Only Nike can really -- only Nike really  
4 can give that determination.

5 So with things like CheckCheck and Legit  
6 Check, we'll also -- I'll also talk to other sneaker  
7 resellers who have familiarity with certain shoes,  
8 because they see more of a certain type of shoe so  
9 they know what to look for on the fakes and I'll rely  
10 on some of their judgments.

11 So, it's not like a single source where,  
12 like, all right, Legit Check App failed it so I know  
13 it's fake.

14 And then, you know, in my case I went from  
15 Legit -- I'm sorry, I went from CheckCheck App to  
16 Legit Check App to double check it. And then I also  
17 took a look at it myself based on some research on  
18 what was happening with some of these SKUs in terms  
19 of defects in the more recent replica batches.

20 Q But you don't personally know whether  
21 CheckCheck is correct when it says a shoe is  
22 authentic or not?

23 A Correct. I don't know for sure, yes.

24 Q Okay.

25 And what is Legit Check?

1 have -- I've submitted shoes with defects that I  
2 don't believe are real defects.

3 Q I see.

4 And I believe you mentioned earlier that  
5 you prefer the customer experience at StockX to the  
6 customer experience at GOAT; is that right?

7 A That is true, yes.

8 Q And is the experience with customer service  
9 one of the factors that leads to that conclusion?

10 A It is.

11 Q Okay.

12 So you experience with customer service at  
13 StockX in your opinion was better than at GOAT?

14 A Yes, by a mile.

15 Q Can you elaborate on why -- on why that is?

16 A Yeah, GOAT will sometimes not respond to  
17 tickets for weeks. I've had issues where I've taken  
18 two to three weeks of continuously emailing them to  
19 resolve an issue.

20 With StockX, generally speaking, I get a  
21 response within one or two business days and most of  
22 my issues are resolved to my satisfaction in the  
23 sense they'll, you know -- in terms of selling  
24 they'll, like, refund the fact that they -- that I  
25 had to pay for the shipping to get the shoes back.

1 customer service regarding any of those purchases?

2 A The only time I had to reach out to eBay  
3 was when there's a billing issue, but not anything  
4 related to shoes or the orders.

5 Q Okay.

6 And how does that experience compare to  
7 your customer service experience at StockX?

8 A It's very, very difficult.

9 Q At eBay?

10 A Yes. There isn't like a direct line you  
11 can really reach out to. I had to dig around to find  
12 emails for people to make it happen.

13 Q In the history of your shoe sneaker  
14 purchasing --

15 A Uh-huh.

16 Q -- have you ever purchased fakes -- fake  
17 sneakers, inauthentic sneakers from GOAT?

18 A Not to my knowledge, no.

19 Q Have you ever suspected that you did?

20 A As sneaker heads, we're conditioned to  
21 think that any shoes is likely -- it could be fake  
22 that comes through these platforms.

23 But I've not got any definitive feelings  
24 about GOAT selling fakes, no.

25 Q Have you purchased fakes through any other

1 platforms or any other channels?

2 A Yes, through Instagram sellers. And at one  
3 time I used Grailed App, which is a little bit  
4 different, but I did get fakes through those --  
5 through those apps.

6 Q Do those, to your knowledge, employ any  
7 authentication processes?

8 A They do not, no.

9 Q Have you noticed any change in the quality  
10 of replica or counterfeit sneakers over time?

11 A Yes, definitely.

12 Q In what way?

13 A So certain SKUs, like the three that I had  
14 purchased, have become far more accurate and we call  
15 -- in the secret community we call them one-to-one  
16 replicas where they become virtually  
17 indistinguishable from the real shoes.

18 And certainly these SKUs, given their  
19 popularity, have been the major focus for replica  
20 makers to build a one-to-one version.

21 So, yes, absolutely over the past year. In  
22 some ways some of these shoes -- especially even  
23 Yeezys -- are virtually indistinguishable from the  
24 real shoe now.

25 Q What about shoes with defects? Have you

1           Q    After you received the refunds from StockX  
2           for the Uni, the Hyper Royal and the Mocha, did you  
3           continue to purchase sneakers through the StockX  
4           platform?

5           A    I did.

6           Q    Approximately how many sneakers have you  
7           purchased through StockX -- how many pairs of  
8           sneakers have you purchased through StockX since that  
9           time?

10          A    Over a thousand, I'm guessing. A lot.

11          Q    And have any of those -- have you believed  
12          that any of those are not authentic?

13          A    No, I have not.

14          Q    Have you bought Nike sneakers, as well as  
15          other brand?

16          A    I have, yes.

17          Q    And are you -- are you continuing to  
18          currently make purchases through StockX?

19          A    I am, yes.

20          Q    What percentage of the shoes that you  
21          purchased through StockX since July 2022 were Nikes?  
22          An estimate is fine.

23          A    Ninety percent plus.

24          Q    You were also in communication with Nike's  
25          litigation counsel in July of '22; correct?